

NOTICE OF MOTION AND MOTION TO STOP
COST OF LIVING ADJUSTMENT
INSTRUCTIONS

People who pay child support and/or spousal maintenance obligations may ask the court to stop the cost-of-living adjustment to a child support and/or spousal maintenance order. The Notice of Motion and Motion to Stop Cost of Living Adjustment **must be filed before the effective date of the adjustment**. The effective date should be stated in your court order. If you receive the notice of the cost-of-living adjustment from the child support enforcement agency, the cost-of-living adjustment is effective on May 1st.

STEP 1
FILL OUT THE “NOTICE OF MOTION AND MOTION TO STOP
COST OF LIVING ADJUSTMENT” FORM

STEP 1a: The information to fill in the boxes and blanks at the top of the form can be found at the top of your current child support order, or your divorce or paternity decree, including:

- The county where your case is located (which may be different from the county where you live).
- The number of the judicial district.
- The court file number.
- The name of the Petitioner/Plaintiff.
- The name of the Respondent/Defendant.

If you are the Petitioner/Plaintiff in the current order or decree you will be the Petitioner/Plaintiff in this motion. If you are the Respondent/Defendant in the current order or decree you will be the Respondent/Defendant in this motion.

STEP 1b: Fill in the name and last known address of the other party and the county agency where your case is located (if county agency is a party). **DO NOT** fill in the date, time, and location of the hearing. You will fill in this information as part of Step 4 below.

STEP 2
FILL OUT THE AFFIDAVIT FORM

STEP 2a: Fill in the top of the form the same way you did on your “Notice of Motion and Motion to Stop Cost of Living Adjustment” form in Step 1a above. Fill in all the appropriate lines.

STEP 2b: **ONLY DATE AND SIGN YOUR “AFFIDAVIT IN SUPPORT OF MOTION” WHEN YOU ARE IN FRONT OF A NOTARY PUBLIC OR THE COURT CLERK. MAKE SURE TO BRING PICTURE IDENTIFICATION TO SHOW TO THE NOTARY PUBLIC OR CLERK.** A Notary Public can usually be found at a bank and sometimes at the courthouse.

STEP 3
FILL OUT THE “SEALED FINANCIAL SOURCE DOCUMENTS” FORM 11.2.
FILL OUT CONFIDENTIAL INFORMATION FORM 11.1 WHEN NECESSARY.

“Sealed Financial Source Documents” Form 11.2 can be found at the end of this packet. Certain information is considered confidential and not available to the public. To keep this information private and not available to the public, you must attach Form 11.2 to certain documents that contain confidential information. See Rule 11 of the Minnesota General Rules of Practice for more information. One Form 11.2 can be used for all documents containing confidential information. Examples of documents that have confidential information include:

- Paycheck stubs, W-2 forms, or business income and business expenses
- Copies of your tax returns and schedules
- Bank statements
- Credit card statements
- Check registers

To protect your privacy, the other parties, and your child(ren), all social security numbers, employer identification numbers, and financial account numbers listed on papers you file with the court must be blackened out (crossed out) completely. Failure to do this means these numbers could be available to the general public and you could be charged court costs for the failure to keep your and the other party’s social security number, employer identification number, and/or financial account numbers private. Use Form 11.1 to list any of these confidential numbers and file Form 11.1 with the court. **If these numbers are already on file with the court, you do not need to submit another Form 11.1.**

STEP 4
OBTAIN A HEARING DATE, TIME, AND LOCATION
FROM THE COUNTY COURT ADMINISTRATOR

STEP 4a: Contact the Court Administrator's Office in the county where your case is located. Tell the Court Administrator that you will be filing a motion to stop the cost of living increase and need a date, time, room number, and address for a hearing. If child support payments are made to the public authority, tell the Court Administrator to schedule the hearing on the Expedited Child Support Process calendar. The hearing date must be at least 17 days away from the date the documents *are mailed* to the other party and the county attorney’s office. Count the day after it is mailed as Day 1. **Remember, all documents must be served upon all parties and filed with the court before the cost of living adjustment effective date!**

STEP 4b: Completing these forms does *not* guarantee that the court will stay the cost of living adjustment. The other party and/or the child support agency have the right to ask the court to grant the cost of living adjustment. A Child Support Magistrate or District Court Judge will make the final decision.

STEP 5
MAKE COPIES OF FORMS

- Step 5a:** After the forms are completely filled out, make three copies of the motion form and three copies of your affidavit and three copies of all documents that support your motion (for example, tax returns, tax schedules, W-2 forms, and paycheck stubs). **Do not** make copies of Forms 11.1 or 11.2, unless you want copies for your own records.
- Step 5b:** Keep one copy of each form and one copy of all supporting documents for yourself (remember to bring your copies with you to court on the day of your hearing).

STEP 6
HAVE COPIES OF THE FORMS SERVED ON THE OTHER PARTY AND COUNTY ATTORNEY'S OFFICE, IF COUNTY AGENCY IS A PARTY

NOTE! **YOU CANNOT SERVE THE DOCUMENTS YOURSELF. YOU MUST HAVE SOMEONE ELSE OVER THE AGE OF 18 WHO IS NOT A PARTY TO THE CASE HAND DELIVER OR MAIL THE DOCUMENTS FOR YOU.**

If you received notice of the cost-of-living adjustment from the child support enforcement agency, your motion, supporting affidavit, and supporting documents must be served upon all parties before MAY 1ST.

You must arrange for the other parties to receive complete copies of all forms and supporting documents you have prepared for the hearing. This is called “service of process.” If you received the notice of the cost-of-living adjustment from the child support enforcement agency, the county agency is a party and you must serve the county attorney’s office. A copy of the motion, affidavit, and any supporting documents must be served upon all parties, either personally or by mail. Personal service means the forms and supporting documents are hand delivered to the other party personally or leaving them at the other party’s place of residence with some person who is 18 years or older who also lives at the same residence. Personal service must be made at least 14 days before the hearing date, and no later than April 30th if the county agency is a party. If the other party is represented by an attorney, the forms and supporting documents must be served on the attorney instead of the party. If using mail service, the documents must be mailed to the other party (or his/her attorney if there is one) and to the county attorney’s office (if county agency is a party) at least 17 days before the hearing date, and no later than April 30th if the county agency is a party. **If your documents are not timely served, your motion may not be heard by the court.**

STEP 7
COMPLETE THE "AFFIDAVIT OF SERVICE" FORM

The person who hand delivers or mails the envelopes must fill out an “Affidavit of Service” form for each party served. You will need to make additional copies of the blank “Affidavit of Service” form.

NOTE! THE PERSON WHO MAILES THE ENVELOPES MUST SIGN THE “AFFIDAVIT OF SERVICE” IN FRONT OF A NOTARY PUBLIC OR THE COURT ADMINISTRATOR. MAKE SURE THE PERSON BRINGS PICTURE IDENTIFICATION TO SHOW TO THE NOTARY PUBLIC OR CLERK.

STEP 8
FILE THE FORMS WITH THE COURT ADMINISTRATOR
AND PAY ANY REQUIRED COURT FEE

The following original documents must be filed with the court in the county where your case is located as soon as practical but no later than 5 days before the scheduled hearing **and before May 1st if the motion is heard in the Expedited Process before a child support magistrate.** For motions scheduled to be heard in district court, documents must be filed no later than 14 days before the scheduled hearing.

- The original of the “Notice of Motion and Motion to Stop Cost of Living Adjustment”.
- The original of the “Affidavit in Support of Motion to Stop Cost of Living Adjustment”.
- The original of the “Affidavit of Service”.

Form 11.2

You must file copies of all supporting documents (such pay stubs, tax returns, verification of medical/dental insurance costs or expenses, child care expenses, disability payments) and attach Form 11.2 to copies of all supporting documents. Be certain to blacken out all social security numbers that appear on any other document not under cover of Form 11.2. Check your documents to make sure all blanks are filled in, especially on the Affidavit of Service and the motion. All papers served must be identical copies of the original forms and supporting documents filed with the court.

Court Fees

You must be prepared to pay any court fee, if applicable, at the time of filing. If you did not pay an initial filing fee when this case first began, you will now need to pay the filing fee.

If you cannot afford to pay the fee, you may qualify to have the filing fee waived by the court. You will need to fill out an “In Forma Pauperis” application (available from the court administrator) and file it with the court administrator. Your application will be reviewed by a child support magistrate or judge who will decide whether you must pay the fee. If the magistrate or judge does not sign an order that waives the fee, you must be prepared to pay the fee or the clerk cannot accept your forms.

STEP 9
APPEAR AT THE HEARING

Come to court on the date and time scheduled for the hearing. Be sure to bring with you your copy of the “Notice of Motion and Motion to Stop Cost of Living Adjustment” and “Affidavit in Support of Motion to Stop Cost of Living Adjustment” and all of your supporting papers.